Yellowknife, NT photo taken by: Sally Card, Legal Aid Adm.

2009/2010
Report of the LEGAL SERVICES BOARD OF THE NWT

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MESSAGE FROM THE BOARD

Despite shortages of lawyers in the family law area and a developing shortage of criminal lawyers, the Board has maintained its high level of service in both areas of the law. Much of this has been due to the ongoing and committed work of our staff lawyers who are prepared to carry on with large volumes of work and to accept files on short notice. The Board is pleased to announce that additional funding has been made available from the GNWT which will allow for the expansion of the staff lawyer program and the establishment of a new clinic in Yellowknife. The Board expects this to only improve the services it can offer to the public.

The Board has continued to assist in the development of the NWT bar by providing articling positions to law graduates and is proud to be assisting, with the Department of Justice, with the final stage in the legal education of some of our northern aboriginal law students. The Board hopes that this program will continue, that students will continue to seek articling positions in the NWT and that more will remain to establish themselves in practice in their home communities.

The Board is grateful for the ongoing support of all our administrative staff and our staff lawyers without whom we could not provide the quality of services to which we aspire.

Ron Holtorf
Chair

THE BOARD OF DIRECTORS

Board Members

The Minister of Justice appoints members of the Board of Directors in accordance with section 3 of the *Legal Services Act*. The *Act* provides for representation on both a regional and interest basis. By convention the various regions are represented on the Board. In accordance with that section, the 2009/10 Board was composed of the following:

Ron Holtorf	Chairperson, representing the South Slave and Deh Cho
Mary Adele Rabesca	Representing the Tłı̨chǫ and North Slave communities
Karan Shaner	Representing the Public Service
Louis Sebert	Representing the Law Society
Sandra Suliman	Representing the Beaufort Delta
Alphonsine McNeely	Representing the Sahtu

Mandate of the Board of Directors

The Board sets policy, makes recommendations to the Minister with respect to the hiring of the Executive Director, administers legal aid clinics, maintains a panel of private lawyers for eligible clients for criminal, family, and civil matters and hears appeals in cases where legal aid has been denied, or lawyers feel their accounts have been reduced without justification. Additional powers are prescribed under section 11 of the *Legal Services Act*.

LEGAL SERVICES BOARD

The Government of the Northwest Territories has been responsible for providing legal since 1971. Previously, the Government of Canada was responsible for the administration of justice in the NWT. The Legal Services Board was established and given responsibility for providing legal aid, court worker services and public legal education and information services throughout the Northwest Territories.

Today, the Board operates three legal aid clinics; two clinics, one in Yellowknife and one in Inuvik, provide both family and criminal law services and a second clinic in Yellowknife provides only family law services. The clinics serve clients in all the communities in the NWT.

The Legal Services Board is established as a corporation by the *Legal Services Act,* RSNWT 1988, c. F-4. The Board reports to the Minister of Justice and is a public agency listed in Schedule A to the *Financial Administration Act,* RSNWT 1988, c. F-4. All Board employees are members of the GNWT Public Service.

Legislative Objectives

The objects of the Board are set out in section 7 of the *Legal Services Act:*

1. To ensure the provision of legal services to all eligible persons;

2. To ensure that the legal services provided and the various systems for providing those services are the best that circumstances permit; and

3. To develop and co-ordinate Territorial or local programs aimed at:
   (a) reducing and preventing the occurrence of legal problems, and
   (b) increasing knowledge of the law, legal processes and the administration of justice.

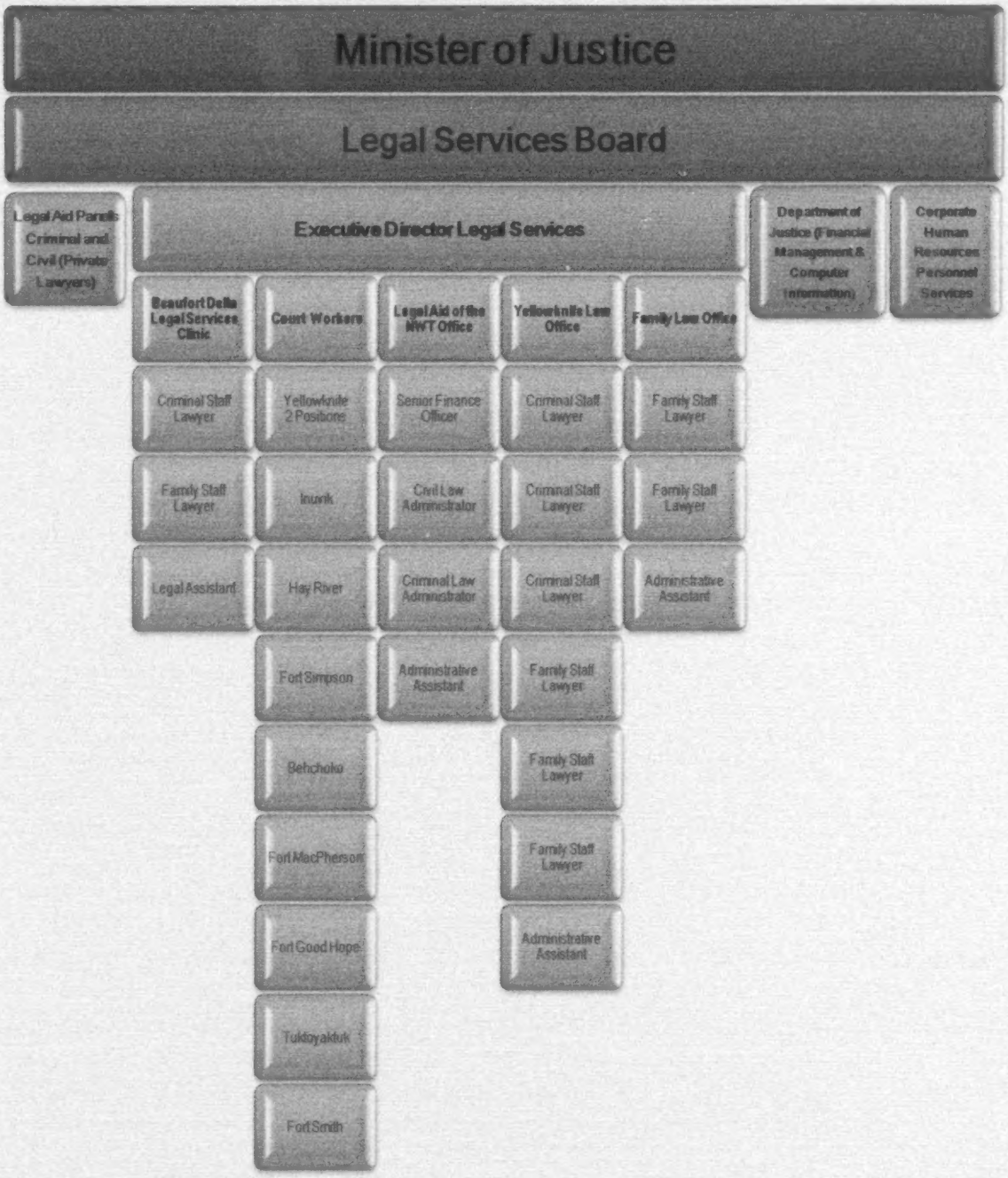
Board Meetings

The Legal Services Board of the NWT met in Yellowknife on two occasions:

April 2, 2009
November 6, 2009

ORGANIZATIONAL STRUCTURE

The following organization chart reflects the structure of the Legal Services Board as of March 31, 2010.



COURT WORKER PROGRAM

Yellowknife, NT Photo taken by: Tracy Bock, Staff Lawyer

In the Northwest Territories, court workers help people who come into contact with the justice system. Their primary duty is to help clients apply for legal aid and ensure the applications and supporting documentation are provided to the Legal Aid office. Court workers also provide general information and referrals to services inside and outside the justice system. They are an important liaison between clients and lawyers and the justice system particularly in more remote communities which do not have the benefit of resident lawyers and where justice is accessible through the court circuit system.

Some court workers may also represent individuals without a lawyer in Justice of the Peace Court. They generally provide assistance with guilty pleas, the resulting sentencing hearings and occasionally with simple trials. They also assist legal counsel in Territorial and Youth Court by ensuring clients and witnesses attend court, helping with translation and communication, gathering information, and interviewing clients. On occasion court workers may help a client with a guilty plea and sentencing in Territorial Court.

Court workers also play a direct role in public legal education through their daily contact with clients, providing information and guidance with respect to the court system and through their referral to other services. Court workers provide legal education through their work with school classes, justice committees, and promote the program by attending at community career fairs, putting public announcements on radio and providing information at seminars and programs in their communities. Some court workers also sit on community inter-agency committees.

The Legal Services Board has eleven court workers positions in ten communities in the NWT. Ten are Board employees and one provided services under an agreement with the Hamlet of Ulukhaktok. That latter position and the position in Fort MacPherson and one in Yellowknife were vacant at the end of 2010.

The Aboriginal Court worker Program has had Federal financial support since 1978.

PUBLIC LEGAL EDUCATION & INFORMATION

The Legal Services Board is responsible for Public Legal Education and Information in the Northwest Territories. Public legal information is disseminated in a number of formal and informal ways.

The Board worked with the Department of Justice to produce the Family Law Manual which provides comprehensive information on family law matters in the NWT. The volume has been distributed widely throughout the NWT and is also available on line through the Department of Justice website. The court workers were provided training to allow them to assist people to use the book. The demand for this manual both in hardcopy and electronically has been significant.

The Board and the Department have and will continue to produce brochures based on specific topics included in the larger manual. These will also be available in French and work will be ongoing to make them available in some aboriginal languages.

Booklets providing advice on charge and arrest were produced and distributed in 2010.

People requiring general legal information are being referred to regional court workers who are able to either provide the information required or make the appropriate referrals.

Staff lawyers are providing legal information on an ongoing basis to callers and those referred by court workers.

Yellowknife NT Photo taken by: Tracy Bock Staff Lawyer

Court workers, and the staff and lawyers at our legal aid clinics routinely provide basic legal information. In addition, the Board provides pamphlets about individual rights and remedies, court proceedings, and local resources available to its clients.

LEGAL AID COVERAGE

Youth Applications – *Youth Criminal Justice Act (Canada), Youth Justice Act (NWT)*

Legal services are generally provided to financially eligible youth charged with offences under the *Criminal Code* and who are required to make an appearance before a Territorial Youth Court Judge or if a matter is brought before the NWT Supreme Court or Court of Appeal. The Board does assess family income when looking at eligibility. On occasion, legal aid coverage may be extended to cover matters in the Justice of the Peace Court.

Legal aid coverage is not provided for youth for criminal or other statutory offences where the matter(s) are proceeding by way of summary conviction unless:

1. There is a reasonable possibility that upon conviction the youth may be incarcerated by way of open or closed or secure custody;

2. There is a reasonable possibility that upon conviction, the youth's livelihood may be prejudiced; or

3. There exist, in the opinion of the Executive Director, special circumstances.

Adult Applications – *Criminal Code*

Although an applicant may be financially eligible for legal aid, the Board or Executive Director can refuse to provide legal aid coverage for certain offences as set out in the Act and Regulations.

Presumed Eligibility

Presumed eligibility arises only in the context of criminal law. Clients who first appear in Territorial court are presumed eligible for legal aid and are provided assistance with preliminary or straightforward matters that duty counsel can deal with in a summary fashion. This includes guilty pleas and non-complex sentencing hearings. If the lawyer determines that the matter requires a preliminary inquiry, trial or a more complex sentencing, the client is told to apply for legal aid to have a lawyer appointed.

Civil Applications

The *Act* authorizes the provision of legal aid services on a discretionary basis for some civil matters. The *Act* and *Regulations* specify that certain civil cases are not covered. The Executive Director may refuse to authorize legal aid if the civil case is of the type when a lawyer would ordinarily agree to act on a contingency basis.

Examples of civil related matters that have received legal aid coverage: workers' compensation appeals, residential tenancy appeals, and wrongful dismissal in certain cases.

Family Law Applications

Legal aid is generally provided to financially eligible applicants in matters involving family breakdowns when there are issues relating to children, spousal support, family violence or in matters relating to child protection.

After a client completes an application for legal aid assistance involving a family law matter, a request goes out to one of the staff lawyers or a member of the family law panel for a legal opinion. The lawyer must advise the Legal Services Board on the merits of the matter. If the opinion is that there is no merit in proceeding, the applicant will receive a Notice of Denial of Legal Aid and an explanation of the reason for the denial.

Approved matters are usually assigned according to the date of application. An exception is made, and matters are given priority in assignment, when the client is facing a court date, the matter involves family violence or the client is facing child protection proceedings.

Residency and Reciprocity

A person who is not ordinarily resident in Canada is not eligible for legal aid coverage except in relation to charges under two federal Acts.

The Legal Services Board of the NWT is a participant in the Inter-Provincial Reciprocity Agreement that allows legal aid coverage to be extended to applicants from any jurisdiction that require assistance with a civil or family matter arising in another Canadian jurisdiction. The costs of providing the service are borne by the legal aid plan in the jurisdiction where the matter is to be heard. The NWT program uses this service almost exclusively in the family law area.

FINANCIAL ELIGIBILITY

Legal Aid Applications

People must complete an application to receive legal aid. The Board uses standard forms and court workers take the applications in person or by telephone. Applicants are usually required to provide detailed financial information with backup documents. This information includes a statement of income for the applicant and anyone living in the household plus a detailed statement of expenses, liabilities, debts, and assets. This information is used to determine an individual's eligibility for legal aid.

Board employees review applications in detail to determine the applicant's financial eligibility. Eligible applicants are assigned duty counsel for criminal matters or go into a rotational assignment process for family and civil law matters. Applicants who are not financially eligible are sent a notice of denial. All applicants can appeal a denial to the Executive Director and then to the Legal Services Board.

In some cases, using criteria set out in the *Act* and *Regulations*, the staff may determine that an applicant can make a contribution to the cost of their legal aid services. A conditional authorization for legal aid is given to the applicant requiring a contribution in order to receive legal aid. Usually applicants have a set time period to make their contributions. Some applicants are assessed a contribution to be paid on the completion of their file as it is expected there will be a financial gain for the client at that time. In cases involving property division, applicants maybe subject to a full recovery of fees and disbursements incurred on their behalf.

Contributions and recoveries are deposited into the Government of the NWT Consolidated Revenue Fund and are not used to directly offset the cost of legal aid.

Financial Eligibility for Youth, Minors and Infant Children

In determining whether a youth, as defined by the *Youth Criminal Justice Act*, (Canada) (12 years of age but less than 18 years of age), or a minor, within the meaning of the *Age of Majority Act,* is eligible for legal aid, the Legal Services Board must consider the financial eligibility criteria of the youth's parents or guardians. The Board does exercise discretion when making a determination. For example, if a youth or minor's interests conflict with that of the parent(s) then the Board will provide legal aid services even if the youth may not be financially eligible.

The Legal Services Board has an arrangement with the Director of Child and Family Services, Department of Health and Social Services, to recover the costs of appointing legal counsel for children when the Court has ordered that the children require their own lawyer in child protection proceedings under the *Child and Family Services Act*.

LEGAL AID ASSIGNMENTS

Panels

The *Legal Services Act* requires work be assigned to members of the Panel in rotation on a fair and equitable basis. The Executive Director assigns approved applicants a lawyer from the Legal Aid Panel. Lawyers located in communities other than Yellowknife get priority for legal aid assignments in their community and the surrounding area for reasons of economic efficiency.

Choice of Counsel

Applicants do not get to choose a lawyer unless they are charged with offences for which the maximum penalty, if convicted, is life imprisonment. However, there is no choice of counsel where an applicant is charged with break and enter under the *Criminal Code* or a trafficking offence under the *Controlled Drugs & Substances Act* (CDSA) where life imprisonment is the maximum sentence. An approved applicant who has choice of counsel can choose any lawyer resident in the Northwest Territories who is on the panel and willing and able to take the case.

Circuit Counsel

The *Legal Services Act* requires the Board to have at least one lawyer (circuit counsel) accompany the Supreme and Territorial Court on all circuits where a lawyer may be required for the delivery of legal aid on the circuit. Applicants for such services are subject to the same criteria as all other applicants who need legal services.

LEGAL SERVICES CLINICS

Yellowknife Law Office

The Yellowknife Law Office was staffed during this year with three family law lawyers, four criminal law lawyers, one articling student and one support staff member. All lawyers provide services throughout the NWT.

Beaufort Delta Legal Services Clinic

The Beaufort Delta Legal Services Clinic operates in Inuvik and provides services to all communities in the region. This year it was staffed with one family lawyer. Criminal law services in the region were provided by travelling defence counsel at all circuits.

Family Law Clinic

The Family Law Clinic in Yellowknife was staffed with two lawyers and one support staff. The staff lawyers provide services exclusively in the family law area to clients throughout the NWT.

APPEALS

Some decisions made by the Executive Director may be subject to an appeal to the Board. If an applicant is assessed a contribution or denied legal aid, the applicant can appeal the decision by providing written notice of his/her intention to appeal and the Executive Director shall bring the matter before the Board for an appeal hearing.

Lawyers also have the right to appeal the Executive Director's taxation of an account. Written notice is required and the Executive Director is required to bring the matter to the Board for an appeal hearing. There is no right of appeal from the Board's decision.

ADMINISTRATION AND FINANCE

Fort Smith, NT Photo taken by: Tracy Bock Staff Lawyer

Funding for the Legal Services Board

The Legislative Assembly allocates money to the Legal Services Board to administer the *Legal Services Act* and provide legal services and other programs under the *Act*. The GNWT receives funding for the Legal Aid Program, aboriginal court workers, and public legal education through the Access to Justice Agreement with the Federal Government. Federal funding has been set at $1,972,327 since 2006/07. Additional special projects have been funded by the Federal Government from time to time.

The GNWT has committed additional funding to establish a new law clinic in Yellowknife and increase the number of staff lawyer positions to a total of fourteen in 2011/12. Any deficits incurred by the Legal Services Board are covered by the GNWT Department of Justice. Any change in that arrangement would mean requesting a supplementary appropriation from the Legislative Assembly.

Personnel

The staff of the Legal Services Board are appointed and employed under the *Public Service Act* and are public servants in the Department of Justice. The Department of Human Resources provides personnel services to the Board.

Financial Services

Financial services are provided by the Department of Justice. Since the Board does not hold separate funds, it is not audited separately from the Department of Justice. An annual independent audit is completed for compliance with the Access to Justice Agreement with Canada.

LEGAL AID TARIFF*

Experience	Hourly Rates ($)	Daily Rates($)
Student at law	53	307
Less than 4 years	81	465
4-6 years	93	576
7-10 years	114	681
11 & more years	135	805

The rates are the same regardless of the level of court.

STAFF LAWYER SALARIES

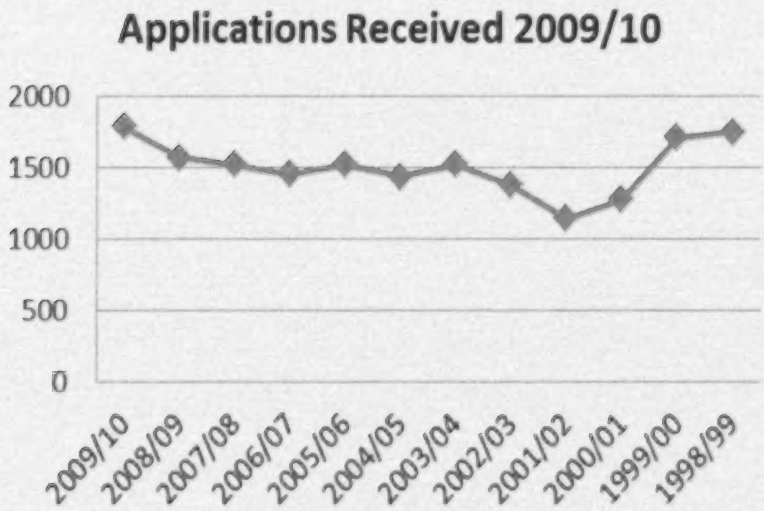
Staff lawyers, as GNWT employees, are paid according to the pay scales established for GNWT legal counsel. These rates are based on legal experience and were as follows for 2009-2010

Legal Counsel I	83,597 – 94,907
Legal Counsel II	91,514 – 103,857
Legal Counsel III	100,152 – 113,685
Legal Counsel IV	109,551 – 124,332
Legal Counsel V	114,582 – 130,065

Financial Report 2009/10

	Actual Expense	2009/10 Main Estimate	Year Variance
Legal Services Board Administration			
Staff Wages and Benefits	729,500	511,000	(218,500)
Operations & Maintenance Expenses	91,743	38,000	(53,743)
Public Education	13,763		(13,763)
Total Administration	835,006	549,000	(286,006)
Court Workers			
Staff Wages and Benefits	763,320	1,079,000	315,680
Operations & Maintenance Expenses	39,343	32,000	(7,343)
Travel	74,162	41,000	(33,162)
Total Court Workers	876,825	1,152,000	275,175
Legal Aid Staff Lawyers			
Staff Wages & Benefits	1,355,839	1,506,000	150,161
Operations, Maintenance	152,322	106,000	(46,322)
Total Legal Aid Staff Lawyers	1,508,161	1,612,000	103,849
Legal Services Board			
Board Expenses	4,272	0	(4,272)
Legal Aid Fees & Disbursements			
Legal Aid Fees/Disbursements	1,493,000	1,626,000	133,000
Circuit Travel expenses (includes staff lawyers)	403,136	224,000	(179,136)
Total Legal Aid Fees & Disbursements	1,896,136	1,850,000	(46,136)
TOTAL	5, 120,400	5,163,000	42,600

STATISTICAL REPORTS FOR 2009/10

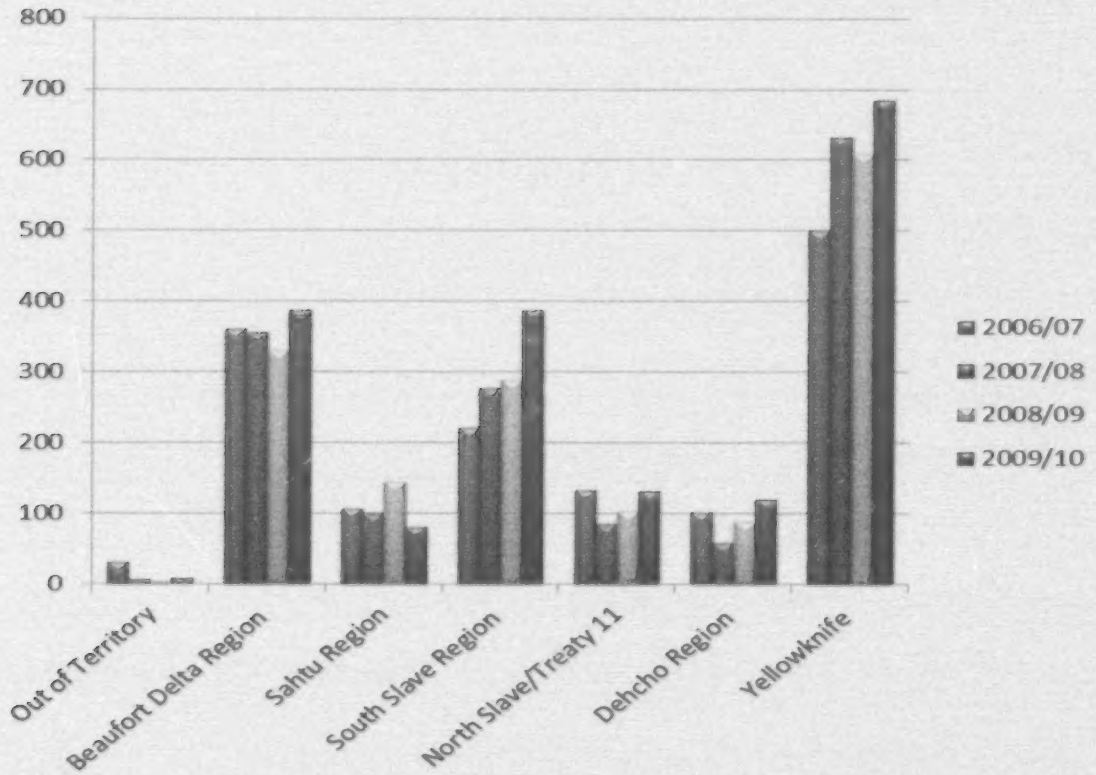


Fiscal Year	Applications Received
2009/10	1785
2008/09	1569
2007/08	1518
2006/07	1455
2005/06	1519
2004/05	1435
2003/04	1522
2002/03	1374
2001/02	1146
2000/01	1277
1999/00	1709
1998/99	1748

**All application received for Criminal (adult & youth) matters and family/Civil matters for the NWT in the fiscal year 01 April 2009 to 31 March 2010.

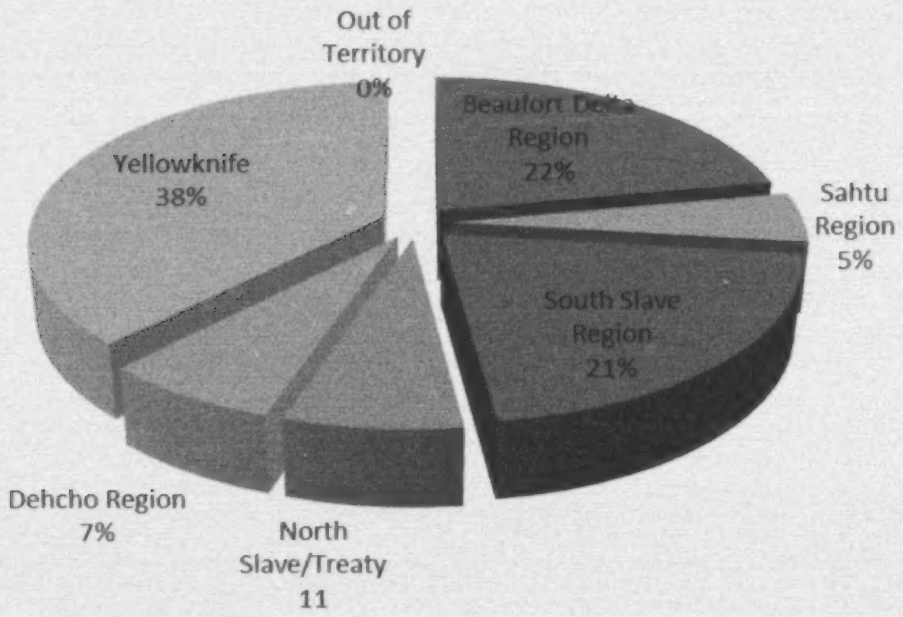
Number of Applications Received

Origin of Application	2006/07	2007/08	2008/09	2009/10
Out of Territory	31	7	5	8
Beaufort Delta Region	361	357	331	388
Sahtu Region	106	100	144	81
South Slave Region	222	277	289	387
North Slave/Treaty 11	133	86	104	131
Deh cho Region	101	59	88	120
Yellowknife	501	632	609	685



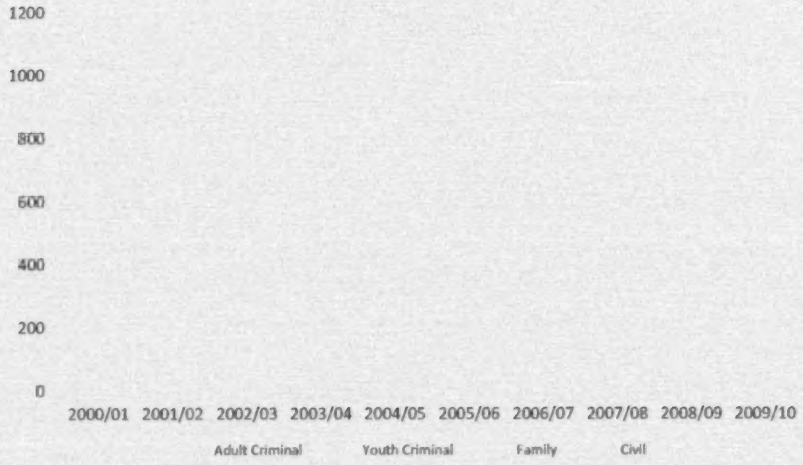
Origin Of Application	2009/10
Out of Territory	0%
Beaufort Delta Region	22%
Sahtu Region	5%
South Slave Region	21%
North Slave/Treaty 11	7%
Dehcho Region	7%
Yellowknife	38%

Origin Of Application by Regions 2009/10



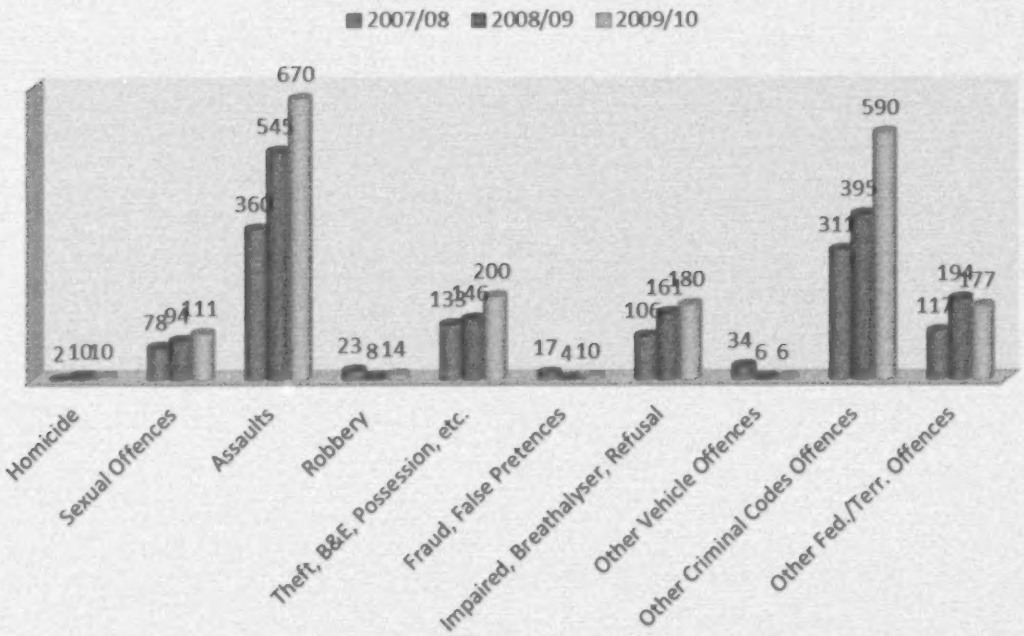
**Out of Territory Applications received from Alberta, Newfoundland, Nunavut and Ontario account for less than 1% of total applications.

Number of Applications Received
by Case Type
2000/01 to 2009/10



Case Type	2000/01	2001/02	2002/03	2003/04	2004/05	2005/06	2006/07	2007/08	2008/09	2009/10
Adult Criminal	503	479	626	766	696	742	721	804	892	1108
Youth Criminal	48	57	86	62	75	111	67	69	66	48
Family	676	569	609	633	636	621	621	606	591	595
Civil	50	41	53	61	26	45	46	44	20	34

BRYDGES SERVCES NUMBER OF CALLS BY TYPE OR MATTER/ADULT/YOUNG OFFENDER



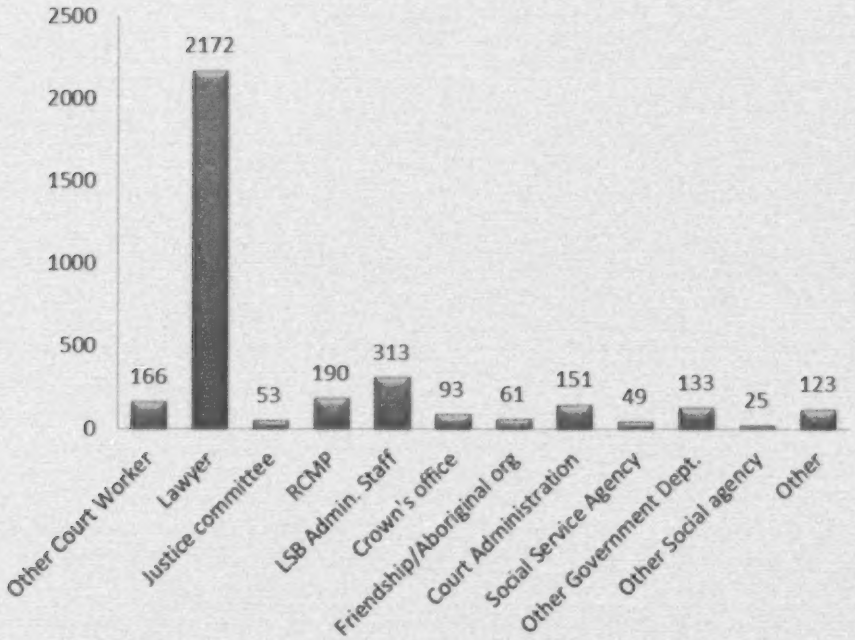
	2007/08	2008/09	2009/10
Homicide	2	10	10
Sexual Offences	78	94	111
Assaults	360	545	670
Robbery	23	8	14
Theft, B&E, Possession, etc.	133	146	200
Fraud, False Pretenses	17	4	10
Impaired, Breathalyser, Refusal	106	161	180
Other Vehicle Offences	34	6	6
Other Criminal Codes Offences	311	395	590
Other Fed./Terr. Offences	117	194	177
Yearly totals	**1181**	**1563**	**1968**

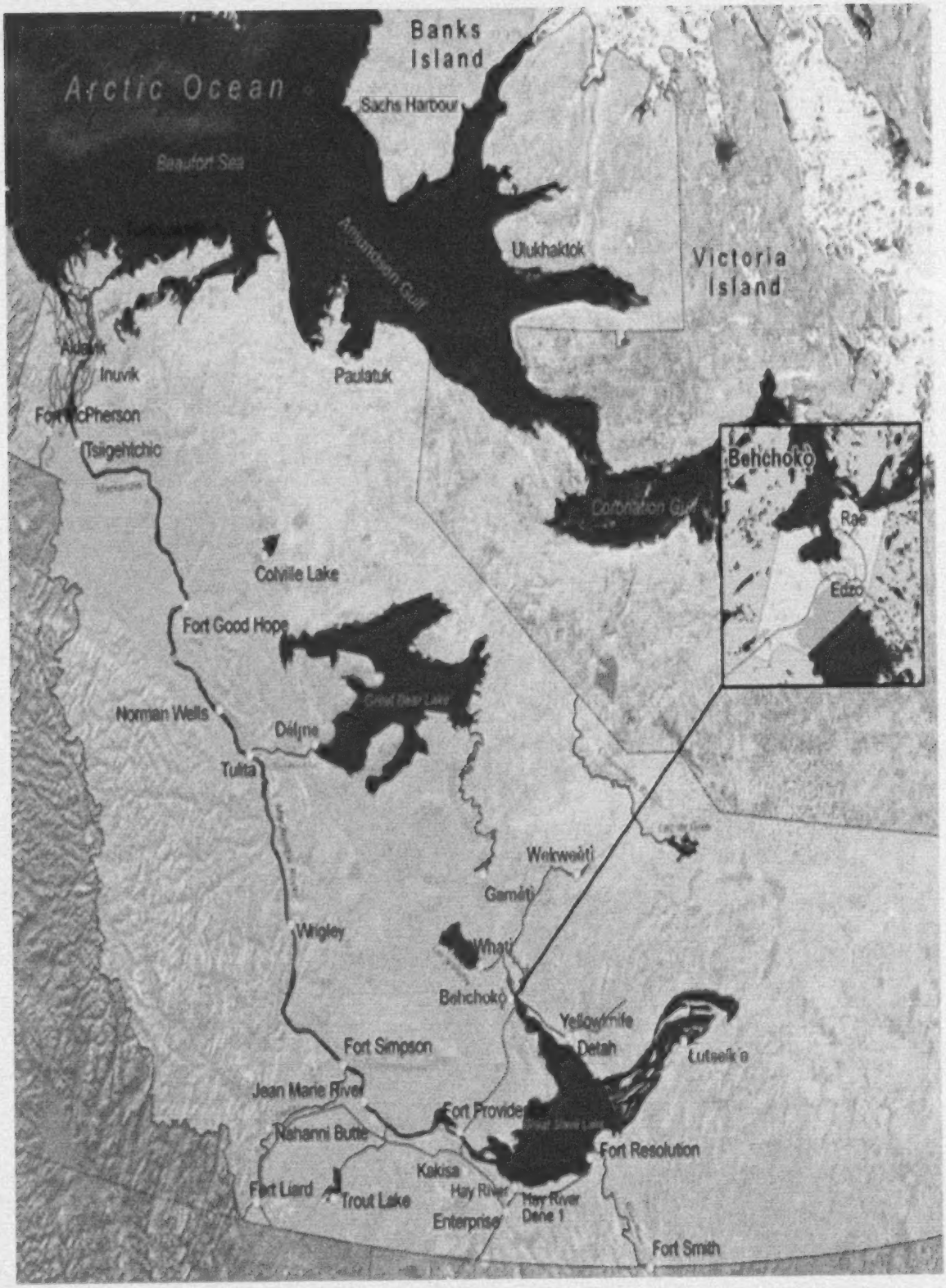
Phone calls made by detained persons that wish to exercise their right to legal advice upon arrest.

Presumed Eligibilty Statistics

	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10
Adult	2336	270	1998	3216	2755	3346	4067	4409
Youth	825	532	604	1013	788	962	756	651

Court Workers community referrals for 2009/2010




Arctic Ocean
Beaufort Sea
Banks Island
Sachs Harbour
Amundsen Gulf
Ulukhaktok
Victoria Island
Aklavik
Inuvik
Paulatuk
Fort McPherson
Tsiigehtchic
Colville Lake
Fort Good Hope
Norman Wells
Déline
Tulita
Great Bear Lake
Wekweètì
Gamètì
Wrigley
Whatì
Behchokǫ̀
Yellowknife
Detah
Łutselk'e
Fort Simpson
Jean Marie River
Fort Providence
Nahanni Butte
Fort Resolution
Kakisa
Fort Liard
Trout Lake
Hay River
Hay River Dene 1
Enterprise
Fort Smith
Behchokǫ̀
Rae
Edzo
Great Slave Lake

OFFICE LOCATIONS AND CONTACT NUMBERS

Legal Services Board of the NWT
4915 48th Street 3rd Floor, YK Centre East
P.O Box 1320
Yellowknife NT X1A 2L9
Tel: (867) 873-7450
Fax: (867) 873-5320

LAW CLINICS

Yellowknife Law Office
 # 4, 4915 – 48TH Street
3rd Floor, YK Centre East
P.O Box 11028
Yellowknife NT X1A 3X7
Tel: (867) 920-6108
Fax: (967) 873-0526

Beaufort Delta Legal Services Clinic
2nd 151 MacKenzie Road
P.O. Box 1100
Inuvik NT X0E 0TO
Tel: (867) 777-2030
Fax: (867) 777-3211

Family Law Office
Unit 44, 5014-49th Street
Centre Square Mall
Yellowknife, NT X1A 3R7
Tel: (867) 920 3365
Fax: (867) 873 0652

COURTWORKERS

South Slave Region
105 – 31 Capital Drive
Hay River NT X0E 1G2
Tel: (867) 874-2475
Fax: (867) 874-3435

Tli Cho Communities
General Delivery
Behchokǫ̀ NT X0E 0Y0
Tel: (867) 392-6386
Fax: (867) 392-6387

Fort Smith
P.O. Box 170
Fort Smith NT X0E 0P0
Tel: (867) 872-6568
Fax: (867) 872-3602

Yellowknife Area
P.O. Box 1320
Yellowknife NT X1A 2L9
Tel: (867) 873-7450
Fax: (867) 873-5230

Deh Cho Region
P.O. Box 178
Fort Simpson NT X0E 0R0
Tel: (867) 695-7315
Fax: (867) 695-7358

Tuktoyaktuk
P.O. Box 200
Tuktoyaktuk NT X0E 1C0
Tel: (867) 977-2260
Fax: (867) 977-2154

Beaufort Delta Region
P.O. Box 1100
Inuvik NT X0E 0T0
Tel: (867) 777-2030
Fax: (867) 777-3211

Sah-tu Region
P.O. Box 239
Fort Good Hope NT X0E 0H0
Tel: (867) 598-2762
Fax: (867) 598-2525